



GLOUCESTER CITY COUNCIL
Planning & Development Committee
Wednesday, November 12, 2014 – **5:30 p.m.**
1st Fl. Council Committee Room – City Hall
(Items May be taken out of order at the discretion of the Committee)

1. *Memorandum from Administration re: Options for the Fuller property RFP (TBC to 12/10/14)*
2. *SCP2014-011: Main Street #260, Map 13, Lot 8, GZO Sec. 1.10.1(a)(3) and 3.2.2(a) for a decrease in the minimum lot area and open space per dwelling unit*
3. *Memorandum from Engineering Department re: proposed street naming and numbering plan for Mooncusser Lane*
4. *Application for License of Flammable and Combustible Liquids, Flammable Gases & Solids*
Re: 2 Washington Street
5. *Memorandum & pertinent material from Planning Director re: Land Disposition Committee Recommendations on 6 Stanwood Street (Easement Request by Karen Elliot, 6 Stanwood Street)*
Cont'd from 12/04/13
6. *Discussion of City permitting processes*

COMMITTEE
Councilor Greg Verga, Chair
Councilor Paul Lundberg, Vice Chair
Councilor Steven LeBlanc

CC: Mayor Kirk
Linda T. Lowe
Salvatore DiStefano, Sr.
Suzanne Egan
Tom Daniel
Gregg Cademartori
Bill Sanborn
Jim Movalli
Rick Noonan
Tom Gillett
Karen Andrews

The listing of matters is those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

City Hall
Nine Dale Ave
Gloucester, MA 01930



TEL 978-281-9700
FAX 978-281-9738
ckirk@gloucester-ma.gov

CITY OF GLOUCESTER
OFFICE OF THE MAYOR

MEMORANDUM

TO: Gloucester City Council
FR: Mayor Carolyn A. Kirk
RE: Options for Fuller RFP
DT: September 15, 2014

Councilors,

The Administration presents this memo to move forward with the disposition of the Fuller property. We have taken the steps necessary to request that the Council accept the School Committee's vote to declare the parcel surplus and therefore vote to authorize the disposition of the parcel.

To review the steps taken to date:

- A. In 2007 the School Committee adopted the Plan for Effective Learning Communities which called for moving the elementary school children from the Fuller School Building. In 2008, the School Committee decided to close the building. Thereafter in January of 2013, the School Committee declared the parcel surplus;
- B. Since that time, the Administration has moved forward to study the feasibility of locating and constructing a public safety facility on the site. The preliminary figures show that it will cost approximately \$40-50 million dollars to construct the public safety building and municipal office building. A response time analysis is being undertaken to determine if the site is a proper location for a public safety facility. Early findings from the response time analysis for moving the FD HQ from current central station to this site show no improvements in response times overall – just trade-offs from one part of the city to others.

The cost estimate of constructing municipal office space alone is approximately \$17.5 million dollars. Using \$47.5million as an estimate for both this and the combined public safety facility, debt service would average about \$4.0 million annually in the first 7 years of the 20 year term. This is based on the current interest rate scenario, and it is expected that rates will begin to slowly trend up beginning about a year from now. To put that \$4.0 million in perspective, the general fund currently supports \$8.0 million of debt service in the current Fiscal Year so this would represent a 50% increase over the current year budget.

As current levels of debt service run off over the next three years, we will be using that capacity to absorb the costs of the West Parish project. In all likelihood, any significant new project is at least ten years out before we can begin to afford it without some type of override.

- C. In addition, we have obtained an existing conditions survey clearly showing the property boundaries.

The administration would like to set out a framework for collaborating with the City Council to take the next steps.

1. First, we ask that the Council accept the School Committee's declaration that the parcel is surplus and that it is no longer needed for school purposes and to authorize the sale of the property under certain terms and conditions.
2. Secondly, we ask that the Council collaborate with the Administration to allow it to submit to Council for its review an RFP for the disposition of the parcel by the Council meeting of October 28, 2014.

In designing the RFP, the Council may establish the terms and conditions of the disposition of the property. *There are two options as to how an RFP may be framed, either a broad RFP which sets out the city's interest as preferences which will be considered in the evaluation process or a narrowly constricted RFP tailored to specifically meet the needs of the city.* This could include subdividing the property prior to the issuance of the RFP. As we have seen through our past experience with broad requests, we will likely garner more responses with a higher price than with a narrow request. With either option the city still has the authority to accept the proposal which aligns with the city's interests.

In terms of a timeline and working backwards in terms of the City Council approval process, we anticipate that a broad RFP which sets out the city's interest as preferences could be released by November 14 with responses due January 1, 2015.

A more narrowly constricted RFP which in all likelihood would require a subdivision of the property and Planning Board approval in addition to City Council approval could be released by February 1, 2015 with responses due by March 1, 2015.

The Administration looks forward to working collaboratively with the City Council on moving forward with the disposition of the Fuller property.

Thank you.

LAW OFFICES OF PORTER AND COAKLEY, LLC CITY CLERK
64 MIDDLE STREET GLOUCESTER, MA
P.O. BOX 1460
GLOUCESTER, MA 01930
(978) 281-0182
FAX: (978) 281-4908

14 OCT -8 PM 1:57

Richard L. Porter
(1982-2004)
Robert J. Coakley
bob@porterandcoakley.com

Melissa F. Powers, Paralegal
melissa@porterandcoakley.com
Lisa A. Ciaramitaro, Legal Assistant
lisa@porterandcoakley.com

Lisa J. Voisine
lisav@porterandcoakley.com

October 6, 2014

Linda T. Lowe, City Clerk
City Hall
9 Dale Avenue
Gloucester, MA 01930

RE: Application in conformance with Section 1.10.1(a)(3) and 3.2.2 (a) for a decrease in the minimum lot area and open space per dwelling unit, 260 Main Street, Assessors' Map 13, Lot 8.

APPLICANT: Fernwood Holdings, LLC

Dear Ms. Lowe:

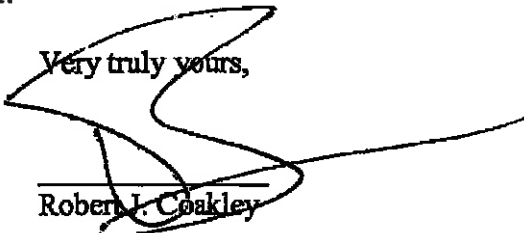
Enclosed please find an original and one (1) copy of each of the following for the above requested City Council Special Permit:

1. Application with sign-offs from the Planning Director and Building Inspector;
2. Color Photograph of the locus;
3. Assessors' Map showing locus with abutting lots;
4. Abutters' list certified by Assessors';
5. City of Gloucester GIS Map showing locus and surrounding parcels;
6. Existing Conditions Plan prepared by American Land Survey Associates, Inc.;
7. Site Plan prepared by Gateway Consultants, Inc.;
8. Floor Plans and Elevations, A1-A3, prepared by Robert I. Mitnik;
9. Copy of Zoning Ordinance Amendment dated September 6, 2005;
10. Copy of approved ZBA Decision;
11. Filing fee of \$350.

A digital submission in pdf format of all of the above Application materials is being sent to you via email. Please schedule this matter at your earliest convenience and contact this office if additional information is required.

Thank you in advance for your cooperation in this matter.

Very truly yours,



Robert J. Coakley

RJC/ljv

Enclosures: As noted

City of Gloucester

Special Council Permit – Application

CITY CLERK
GLOUCESTER, MA

14 OCT -8 PM 1:57

12/12/14
(Public hearing to be held no
later than above date)

In conformance with the requirements of the Zoning Ordinance of the City of Gloucester, the undersigned hereby applies for a Special Council Permit (CC or CCS) in accordance with Section 1.8.3 of the Ordinance and other Sections as listed below:

Type of Permit (Give specific section of Zoning Ordinance) Section 1.10.1(a)(3) and 3.2.2.(a) for a

decrease in the minimum lot area and open space per dwelling unit.

Applicant's Name Fernwood Holdings, LLC

Owner's Name _____
(if different from applicant)

Location 260 Main Street Map # 13 Lot # 8
(Street Address)

Zoning Classification: CB

- Attached is a list of owners (with complete addresses) of land directly opposite on any public or private street or way, direct abutters, and abutters to the abutters of land within three hundred (300) feet of the property line, as they appear on the most recent City of Gloucester Assessor's Maps and Tax list.
- Attached is a listing of criteria set forth in Section 1.8.3 of the Zoning Ordinance, including any supportive material or comments the applicant may wish to include (i.e., ZBA decisions, Order of Conditions, etc.) if necessary.
- Attached are the necessary plans as set forth in Section of 1.5.3 of the Zoning Ordinance, which at a minimum consist of an accurate plot plan (to scale) showing existing and/or proposed building or structures.

City of Gloucester – Action

Fee: \$350.00

City Clerk (received): JMS. 10/16/14
City Council (received): 10/14/14
Public Hearing (ordered): _____
Public Hearing (opened): _____
Public Hearing (closed): _____
Final Decision: _____
Disposition: _____
(Approved, Denied, Approved w/conditions)

Applicant:

Name (Signature) Robert J. Coakley, Esq.
for Fernwood Holdings, LLC

C/O 64 Middle Street, Gloucester, MA

Address
978-281-0182
Telephone

Certified for completeness

Building Inspector: [Signature] Date: 10/8/14

Planning Director: [Signature] Date: 10/8/14

City Council Permit – Application

Section 1.8.3 – (Use additional sheets, if necessary)

1. Social, Economic, or Community needs served by the proposal:

The proposed new structure will consist of a retail unit on the first floor with ground level parking spaces, as well as two small duplex apartments on the upper levels. The use is consistent with the surrounding neighborhood.

The Zoning Board of Appeals has granted the necessary Special Permits and Dimensional zoning relief for this proposal.

2. Traffic flow and safety:

The proposed use is 100% compliant in terms of parking. There is ground level parking in the building. There is a Lease in effect with the Gloucester Housing Authority for parking in the vacant lot next door at 256 Main Street (Map 13, Lot 9).

3. Adequacy of utilities and other public services:

The Applicant has provided for drainage which will comply with the City's Drainage Ordinance. Extensive work has been done with the DPW, Engineering and the City's Contractors to be able to tie into the City's lines for drainage and utility purposes.

The DPW Director has approved replacing one large curb cut with two smaller ones.

4. Neighborhood character and social structure:

The proposed mixed retail and residential use is consistent with the uses in the surrounding neighborhood and with the Zoning Ordinance Amendment in 2005.

5. Qualities of the natural environment:

There will be no impact on the natural environment by virtue of this conversion.

6. Potential fiscal impact:

The proposal will add two (2) additional apartment units to a new retail use. The addition of these two small units will not adversely impact the schools or public safety; they will provide additional tax revenue to the City and will significantly help the downtown.

APPLICATION FOR SPECIAL PERMIT

The undersigned applicant hereby applies for a special permit under M.G.L., Ch. 40A, § 9 as follows:

1. Applicant (includes equitable owner or purchaser on a purchase and sales agreement):

Name: Fernwood Holdings, LLC

Address: c/o Robert J. Coakley, Esq., Law Offices of Porter and Coakley, LLC,

64 Middle Street, Gloucester, MA 01930

Tel. #: Days 978-281-0182 Evenings _____

_____ Check here if you are the purchaser on a purchase and sales agreement.

2. Owner, if other than applicant:

Name: _____

Address: _____

Tel. #: Days _____ Evenings _____

3. Property:

Street Address: 260 Main Street, Gloucester, MA

Assessor's map: 13 Lot: 8

Registry of deeds where deed, plan, or both recorded:

Essex South District Registry of Deeds

Deed recording: Book 32241 Page 444

Plan recording: Plan # _____

Property is located in the CB zoning district

4. Nature of relief requested: Special Permits pursuant to Sections 1.5.3; 1.8.3; 1.10.1(a)(3) and 3.2.2(a) of the Zoning Ordinance/By-law which authorize the City Council to allow a decrease in the lot area and open space per dwelling unit.

Detailed explanation of request: Applicant proposes to tear down the Cape Ann Animal Shelter and construct a new building comprised of a retail unit on the first floor and two small duplex apartment units on the upper floors with ground level parking at 260 Main Street. Applicant proposes a lot area per dwelling of 1,569.5 s.f. which requires a reduction of 930.5 s.f. per unit from the required 2,500 square feet and 412 s.f. of open space per dwelling unit which requires a reduction of 838 s.f. per unit from the required 1,250 square feet. The Zoning Board of Appeals granted zoning relief to allow the Applicant to apply to the City Council on August 28, 2014. The Applicant believes the proposed building will be consistent with the surrounding neighborhood and will pose no detriment to the neighborhood and the community.

5. Evidence to support grant of special permit: Because of reasons set forth below, the special permit requested will be in harmony with the intent and purpose of the Zoning Ordinance/By-law:

The Applicant believes the mixed retail and residential use serves the social and community needs of the downtown area and is consistent with the City Council's Zoning Ordinance Amendment of 2005; the inclusion of in building parking will contribute to traffic flow and safety in the area; there will be no additional demands on utilities or other public services; the proposal is consistent with the surrounding neighborhood; there is no negative impact on the natural environment; and the proposal will add two small apartment units which will provide additional tax revenue to the City.

Because of the reasons set forth below, the special permit requested will meet the additional requirements of zoning Ordinance/By-Law as follows:

The Applicant received necessary zoning relief from the Zoning Board of Appeals in order to apply to the City Council for Special Permits pursuant to Section 1.5.3; 1.8.3; 1.10.1(a)(3); and 3.2.2(a) of the Zoning Ordinance. It is the Applicants' belief that the proposed building, which is located in the Central Business (CB) District, will be consistent with the surrounding neighborhood and will pose no detriment to the neighborhood or the community. Applicant also believes the lesser lot area and open space are in keeping with neighborhood character and structural density.

If someone other than owner or equitable owner (purchaser on a purchase and sales agreement) is the applicant or will represent the Applicant, owner or equitable owner must designate such representative below.

Name of Representative: Robert J. Coakley, Esq.

Address of Representative: 64 Middle Street, Gloucester

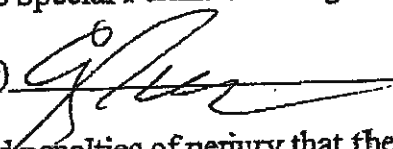
Tel. #: Days 978-281-0182 Evenings _____

Relationship of representative to owner or equitable owner:

Attorney


I hereby authorize Robert J. Coakley, Esq., Law Offices of Porter and Coakley, LLC
to represent my interests before the Special Permit Granting Authority with respect to
this Special Permit Application.

✱

(Signed by owner/equitable owner) 

I hereby certify under the pains and penalties of perjury that the information
contained in this application is true and complete.

✱


Signature of Applicant
Anthony Taliadoros, Manager
Fernwood Holdings, LLC

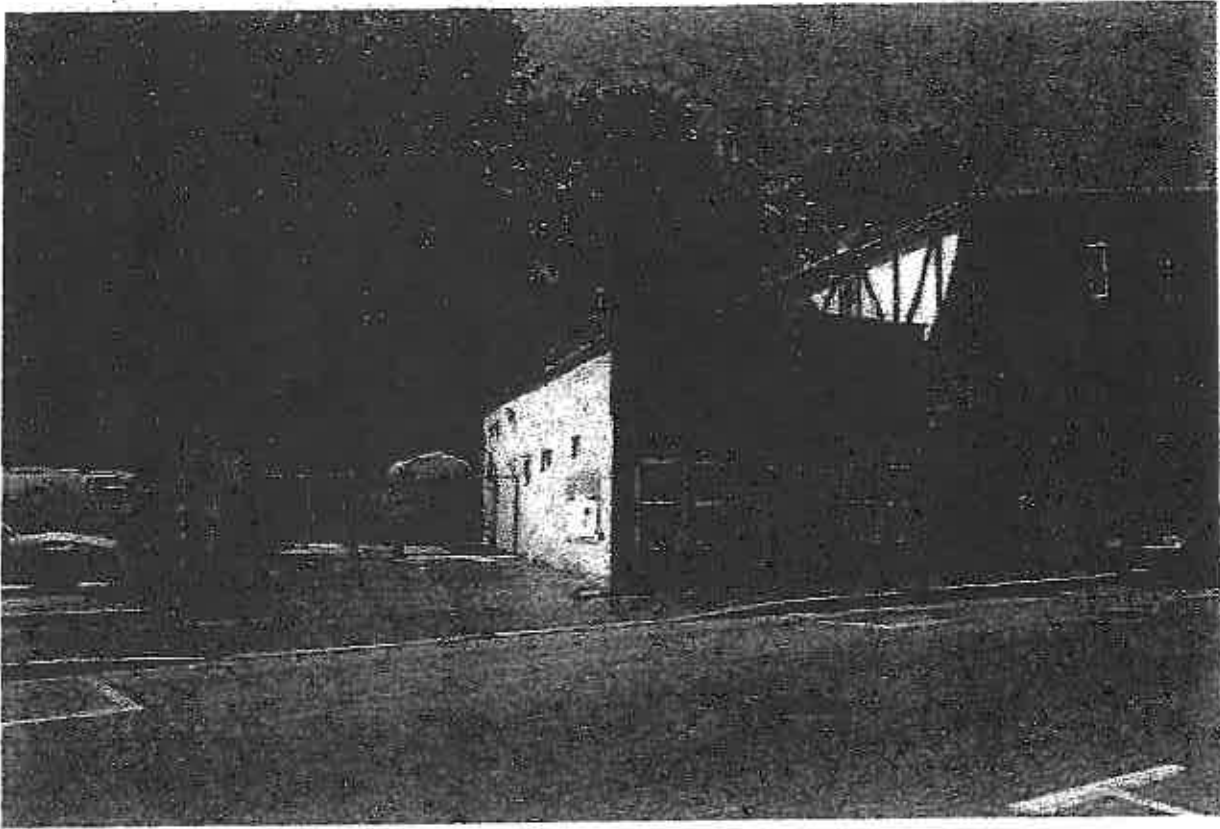
October 6, 2014
Date:

Signature of Owner if other than
Applicant

Date

Signature of Equitable Owner who is
filing Application to satisfy
condition of Purchase and Sales agreement

Date





City of Gloucester Abutters Report

Abutters to Parcel: Map-Lot-Unit 13-8

Please be aware that the abutters list reflects mailing address for the real estate tax bills as requested by the property owners. Mortgage companies, banks and other financial institutions may be receiving the notification and not the homeowner as required. Please be sure you are complying with notification requirements.

Gloucester Board of Assessors

This list of owners of record as shown on the most recent tax list of the City of Gloucester has been prepared for the purposes of notifying abutters as required by the City's Zoning Board of Appeals or City Council and it reflects the abutters to the Parcel known as Map 13 Lot 8 as further shown on the attached map dated 7/30/2014.

ABUTTER	STREET ADDRESS	PARCEL NO.	TAX BILL ADDRESS
13-72 PIERCE MICHAEL A & DAVID W TR THE PIERCE FAMILY TRUST	11 PROSPECT SQ	13-72	PIERCE MICHAEL A & DAVID W TR THE PIERCE FAMILY TRUST 24 HAMMOND ST GLOUCESTER, MA 01930
13-73 FEENEY DENNIS M	15 PROSPECT SQ	13-73	FEENEY DENNIS M 15 PROSPECT SQ GLOUCESTER, MA 01930
13-67 GLOUCESTER HOUSING AUTHORITY	99 PROSPECT ST	13-67	GLOUCESTER HOUSING AUTHORITY 99 PROSPECT ST GLOUCESTER, MA 01930 0000
13-12 HALLETT BARRY J JR TR C/O SUPER SYMMETRY LLC	242 MAIN ST	13-12	HALLETT BARRY J JR TR C/O SUPER SYMMETRY LLC PO BOX 1481 MANCHESTER, MA 01944
13-93 NELSON JAMES H JR	248 MAIN ST	13-93	NELSON JAMES H JR 248 MAIN ST GLOUCESTER, MA 01930
13-9 GLOUCESTER HOUSING AUTHORITY	256 MAIN ST	13-9	GLOUCESTER HOUSING AUTHORITY 99 PROSPECT ST GLOUCESTER, MA 01930
13-8 FERNWOOD HOLDINGS LLC	260 MAIN ST	13-8	FERNWOOD HOLDINGS LLC 209 ESSEX AV GLOUCESTER, MA 01930
13-7 CAPE ANN LODGE NO 1471 INC LOYAL ORDER OF MOOSE	262 MAIN ST	13-7	CAPE ANN LODGE NO 1471 INC LOYAL ORDER OF MOOSE 262 MAIN ST GLOUCESTER, MA 01930
13-5 VUTCHARANGKUL SURAPORN TR C/O ARNEE TRUST	272 MAIN ST	13-5	VUTCHARANGKUL SURAPORN TR C/O ARNEE TRUST 272 MAIN ST GLOUCESTER, MA 01930
10-3 GORTONS INC	128 ROGERS ST	10-3	GORTONS INC 128 ROGERS ST GLOUCESTER, MA 01930



City of Gloucester Abutters Report

Abutters to Parcel: Map-Lot-Unit 13-8

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Gloucester Board of Assessors.

This list of owners of record as shown on the most recent tax list of the City of Gloucester has been prepared for the purposes of notifying abutters as required by the City's Zoning Board of Appeals or City Council and it reflects the abutters to the Parcel known as Map 13 Lot 8 as further shown on the attached map dated 7/30/2014.

ABUTTER	STREET ADDRESS	PARCEL NO.	TAX BILL ADDRESS
13-59 CIOLINO ROSA C/O CIOLINO ROSA	17 CHESTNUT ST	13-59	CIOLINO ROSA C/O CIOLINO ROSA 17 CHESTNUT ST GLOUCESTER, MA 01930-3701
13-60 NICASTRO SALVATORE	19 CHESTNUT ST	13-60	NICASTRO SALVATORE 19 CHESTNUT ST GLOUCESTER, MA 01930
13-61 GOULART MICHAEL A & PATRICIA F	21 CHESTNUT ST	13-61	GOULART MICHAEL A & PATRICIA F 21 CHESTNUT ST GLOUCESTER, MA 01930
13-62 SEARS MARY A	23 CHESTNUT ST	13-62	SEARS MARY A 23 CHESTNUT ST GLOUCESTER, MA 01930
13-63 CIARAMITARO SAMUEL S	25 CHESTNUT ST	13-63	CIARAMITARO SAMUEL S 25 CHESTNUT ST GLOUCESTER, MA 01930

I hereby certify that the above identifies the assessed owner of record and the mailing information for the parcel listed, as shown on the most recent tax list of the City of Gloucester Massachusetts.

Signed,

Madonna Ferraro

Name:

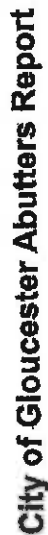
Principal Clerk

Title:

Date:

7/31/14

Authorized Representative of the City of Gloucester Assessors' Office, City Hall, 9 Dale Avenue, Gloucester, MA 01930



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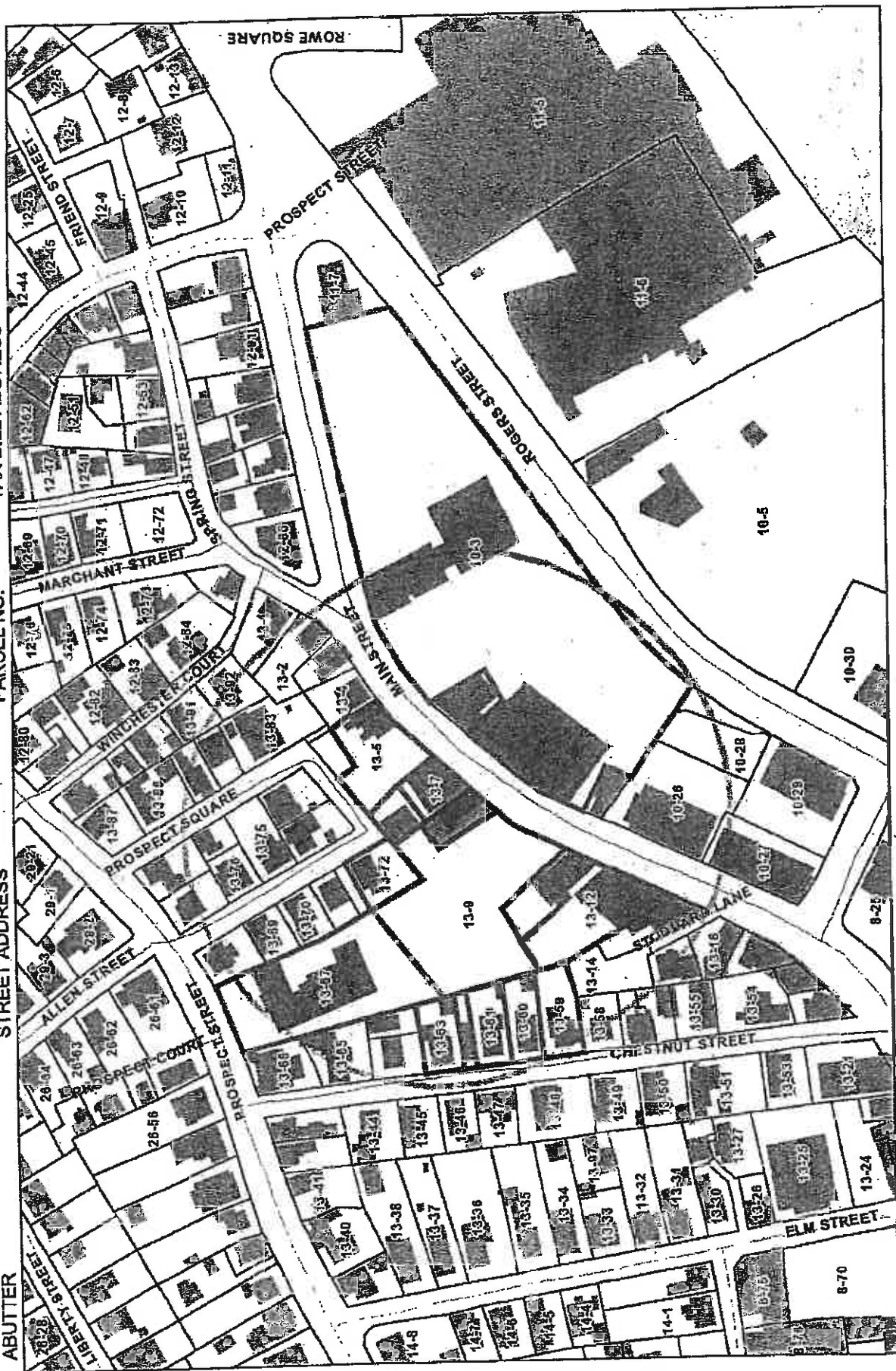
Gloucester Board of Assessors.

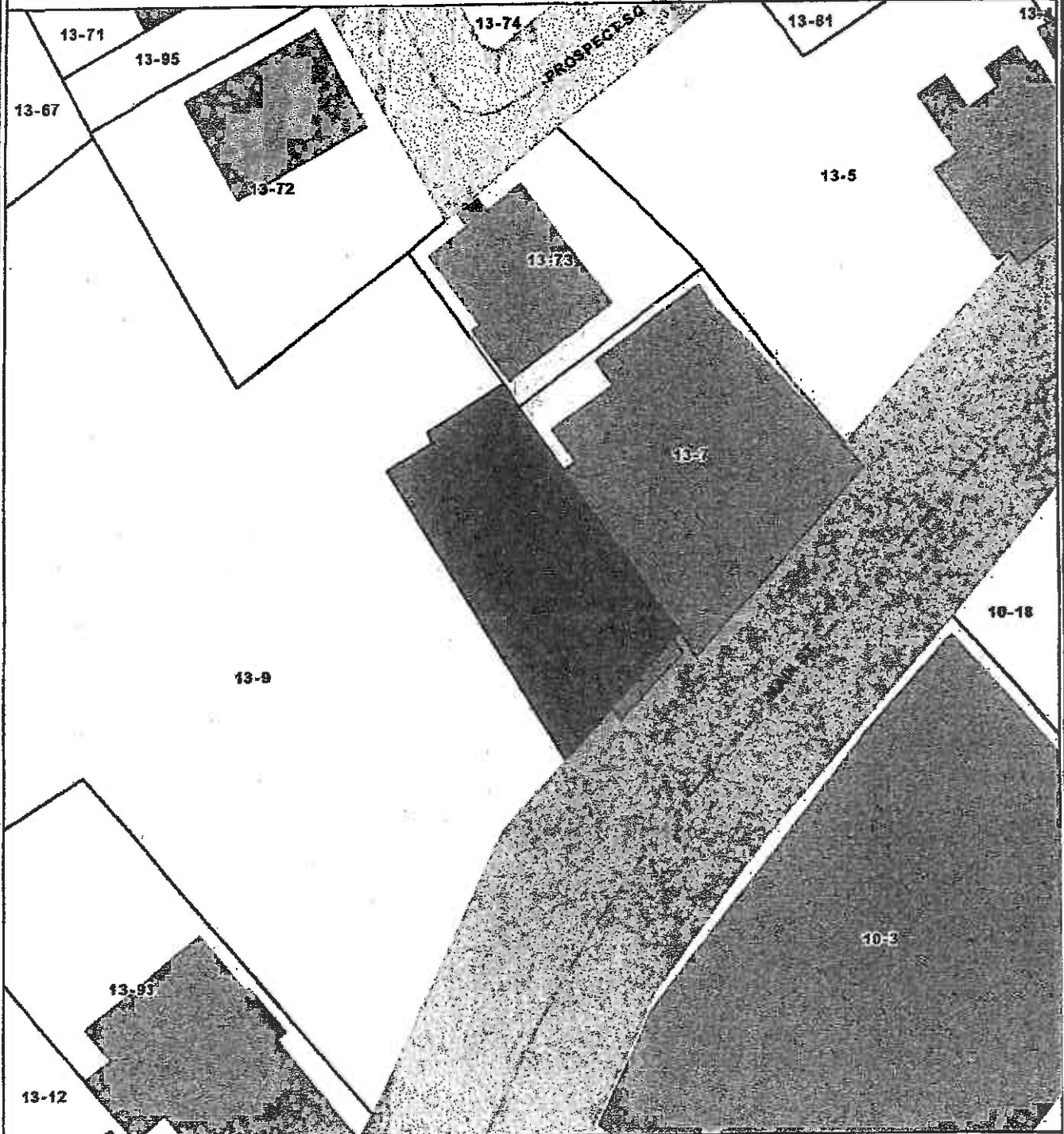
TAX BILL ADDRESS

PARCEL NO.

STREET ADDRESS

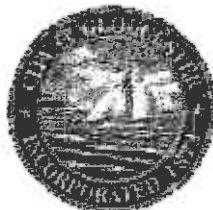
ABUTTER





- Interest P**
- Athletic
 - Beach
 - ▲ Cemetery
 - ▲ Church
 - ▼ Federal Government Facility
 - Fire Station
 - ▲ Historic Site
 - Medical
 - Library
 - ▲ Municipal/State Government
 - Multi-Flight Landing Zones
 - Park & Ride Lot
 - Police Station
 - Recreation site
 - ▲ School
 - State Parks, Forests, & Recreation
 - Building Footprint

- Transportation**
- Street/Centerline
 - Water Bodies
 - Wet Pond, Lake, Ocean
 - Reservoir
 - Wetland
 - Submerged Wetland
 - Cranberry Bog
 - Tidal Flats
 - Inundated Area
 - Permits



1" = 36 ft

Planimetric and topographic base map features 1" = 40 scale from Aerial Photography March 2011. The information depicted on this map is for planning purposes only. The City of Gloucester makes no warranties, expressed or implied, concerning the accuracy, completeness, reliability, or suitability of these data. The City of Gloucester does not assume any liability associated with the use or misuse of this information.

American Land Survey Assoc., Inc.

42 CHERRY STREET

GLOUCESTER, MA 01930

978-281-7878

NOTES:

ADDRESS : 260 MAIN STREET
GLOUCESTER, MA

OWNER : CAPE ANN ANIMAL AID
ASSOCIATION, INC.

ASSESSORS MAP 13 LOT 8

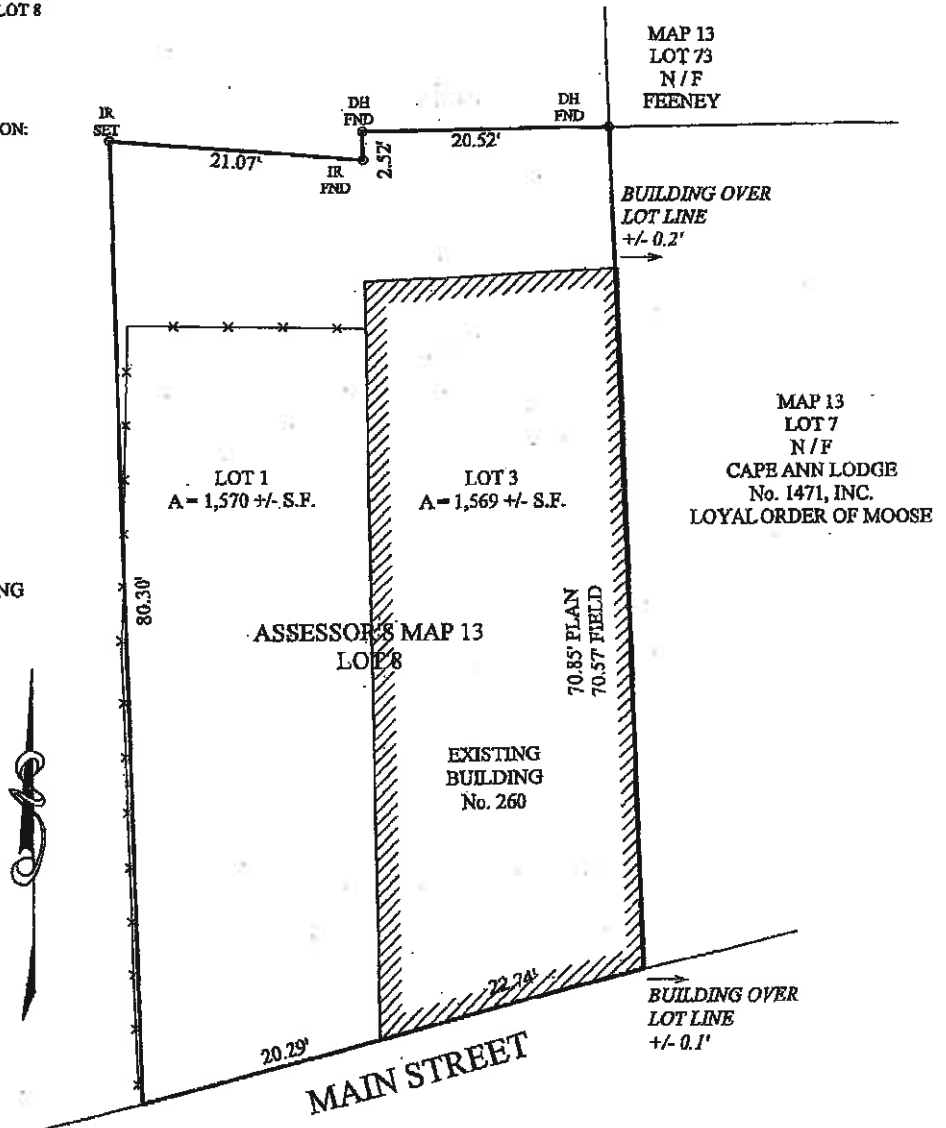
ZONE : CB

DEED REFERENCE : BOOK 6005 PAGE 35
BOOK 6179 PAGE 401
BOOK 9883 PAGE 132

PLAN REFERENCE : BOOK 249 PLAN 18
BOOK 2514 PAGE 455
PLAN 273 OF 1979

FLOOD CERTIFICATION:
ZONE "X"
COMMUNITY 250082
PANEL 456F
DATED JULY 3, 2012

N / F
GLOUCESTER HOUSING
AUTHORITY



I HEREBY CERTIFY THAT THIS PLAN IS BASED ON THE REFERENCED PLANS, DEEDS, AND THE RESULTS OF A FIELD SURVEY AS OF THIS DATE. NO CERTIFICATION IS INTENDED AS TO PROPERTY TITLE OR AS TO THE EXISTENCE OF UNWRITTEN OR UNRECORDED EASEMENTS. THE BUILDINGS AND POINTS SHOWN HEREON ARE LOCATED AS FOUND OR SET.

KIRK W. BENSON, PRESIDENT, PLS # 40036

PHOTO REPRODUCTION OF THE PROFESSIONAL SEAL IS INDICATIVE OF UNAUTHORIZED REPRODUCTION OF THIS PLAN AND IS TO BE CONSIDERED A COPYRIGHT INFRINGEMENT AND / OR FRAUD. ENFORCEMENT AUTHORITY SHALL NOT ACCEPT PHOTO REPRODUCTION FOR ANY PURPOSE. THIS PLAN IS FOR ORIGINAL OWNER'S PURPOSE AND IS NOT TO BE SOLD OR TRANSFERRED TO ANY NEW OWNER OR THIRD PARTY.

PLOT PLAN OF LAND

Located In

GLOUCESTER, MA

Prepared By

American Land Survey Associates, Inc.

Kirk W. Benson, President, PLS

42 Cherry Street Gloucester, MA 01930

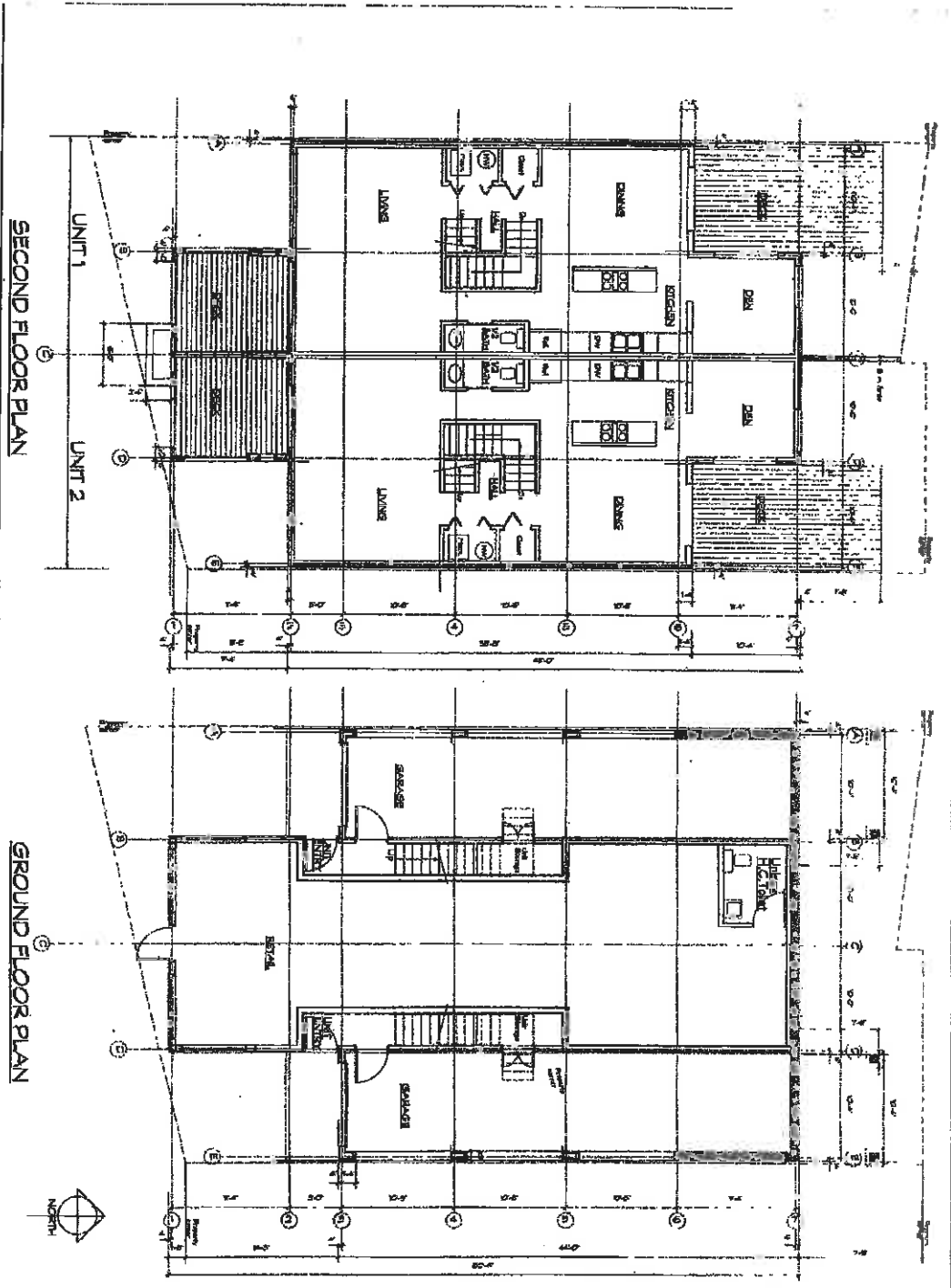
978-281-7878

SCALE 1" = 10' JANUARY 26, 2013

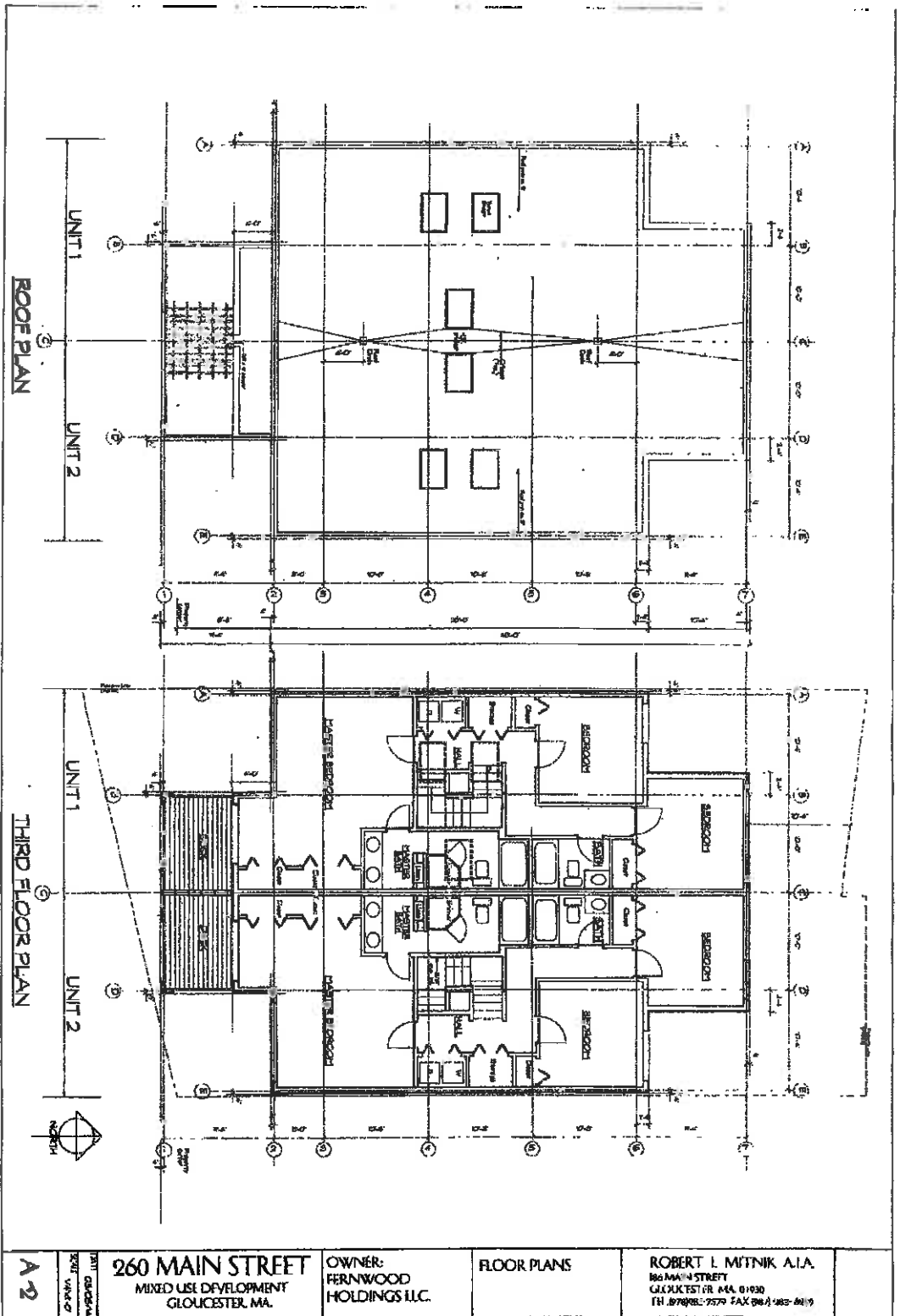
Prepared For

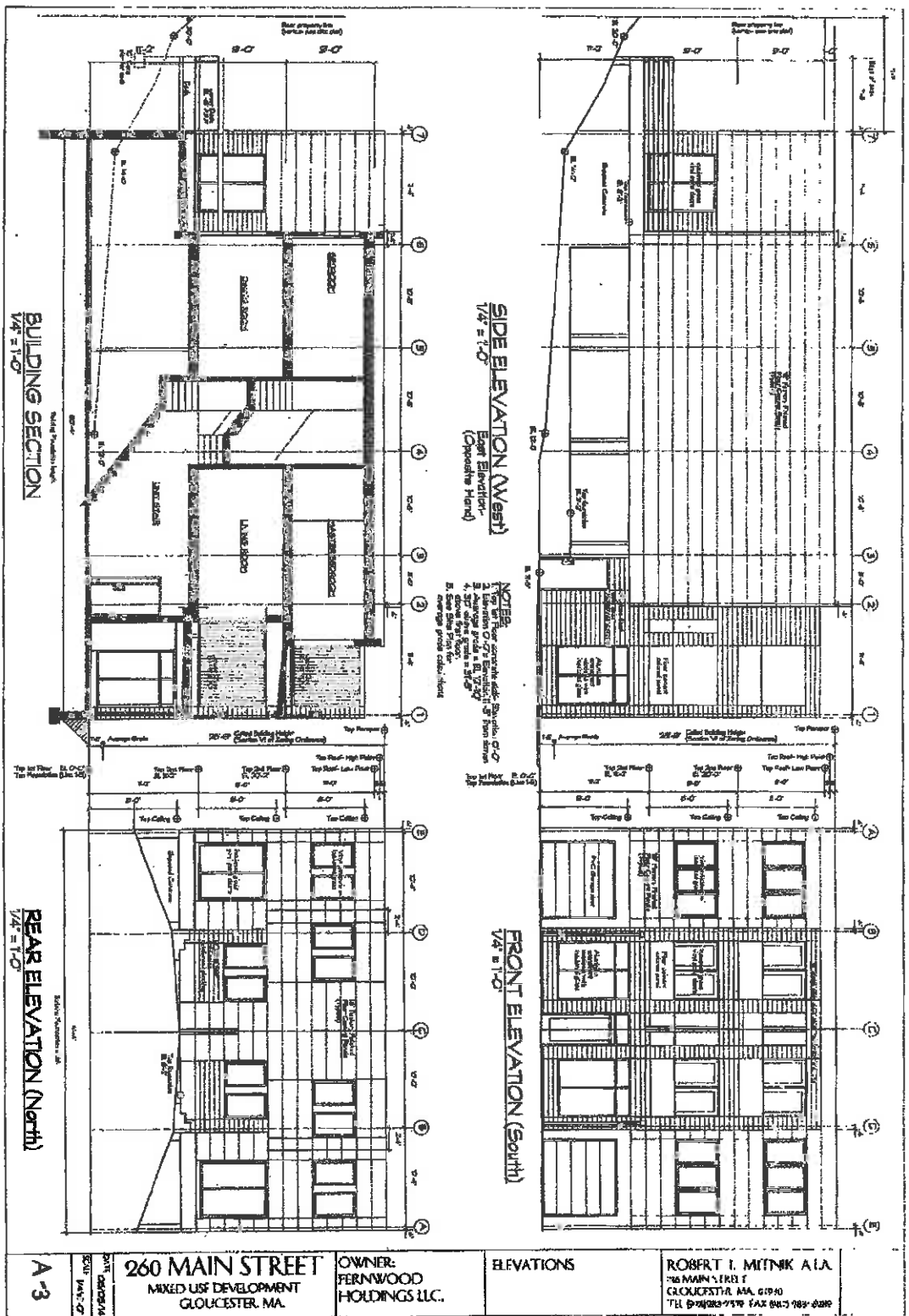
TOM TALIADOROS

J-1424



A-1	260 MAIN STREET MIXED USE DEVELOPMENT GLOUCESTER, MA.	OWNER: FERNWOOD HOLDINGS LLC.	FLOOR PLANS	ROBERT I MITNIK AIA 86 MAIN STREET GLOUCESTER, MA. 01940 TEL. 978/269-7379 FAX 978/269-6289	
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CITY OF GLOUCESTER

In the Year 2005

AN ORDINANCE RELATING TO ZONING

BE IT ORDAINED in accordance with the provisions of Chapter 40-A, Section 5, MGL, and Section 1.5 of the Gloucester Zoning Ordinance, that the City Council of the City of Gloucester at a public hearing held on Tuesday, September 6, 2005 voted by ROLL CALL (9) in favor, (0) opposed, on the following plan:

THAT THE GLOUCESTER ZONING ORDINANCE, SECTION 2.3.1 RESIDENTIAL USES, #4 ISSUED JUNE 2005, WITH INCORPORATED AMENDMENTS TO THAT DATE BE AMENDED AS FOLLOWS:
Multi-family or apartment dwelling, by changing up to three (3) dwelling units by right in the Central Business (CB) district and up to two (2) dwelling units by right in Village Business (VB) district with the following requirements as footnotes at the bottom of the table (3) Retail or other business/commercial use allowed by right shall be retained at street level.
(4) Must meet existing parking ordinance for all uses and the exterior of the existing building shall not be expanded without a ZBA Special Permit (SP). (5) Only two (2) dwelling units are permitted by right in the VB zoning district.

This zoning amendment shall become effective immediately upon ordainment.

IN CITY COUNCIL
VOTED TO ADOPT

September 6, 2005

Robert D. Whynott

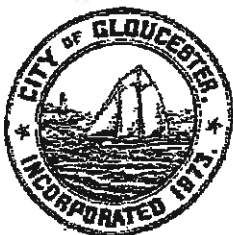
Robert D. Whynott, City Clerk

APPROVAL OF THE MAYOR

John P. Bell
John P. Bell, Mayor

VETOED BY THE MAYOR

John P. Bell
John P. Bell, Mayor



CITY OF GLOUCESTER
GLOUCESTER, MASSACHUSETTS

14 SEP 26 AM 10:14
CITY CLERK
GLOUCESTER, MA

ZONING BOARD OF APPEALS

August 28, 2014

Petitioner: Fernwood Holdings, LLC

Property Address: 260 Main Street, Assessors' Map 13, Lot 8

Zoning Classification: CB (Central Business)

Title Reference: Essex South Registry of Deeds, Book 32241, Page 444

Seeking the following forms of relief:

A Special Permit to alter/expand a nonconforming structure and Variances for front, side and rear yard setbacks, lot width and lot frontage to enable petitioner to demolish the existing building and rebuild a new structure containing retail on the first floor and two(2) residential units on the upper floors at 260 Main Street.

The Board finds that proper notice was given by mail and advertising. The hearing was opened on the date and place as posted, August 28, 2014, 7:00 p.m., City Council Chambers, Kyrouz Auditorium, Gloucester City Hall, Gloucester, Massachusetts. The Board members that evening were:

JAMES P. MOVALLI, CHAIRMAN
VIRGINIA BERGMANN, VICE-CHAIR
FRANCIS S. WRIGHT, JR.
DAVID B. GARDNER
LEONARD A. GYLLENHAAL
RICHARD C. RAFUSE

TESTIMONY IN SUPPORT OF THE PETITION:

Attorney Robert J. Coakley appeared on behalf of Fernwood Holdings, LLC.

A handout consisting of a copy of the 2005 Zoning Ordinance Amendment to Section 2.3.1, as well as a Summary of Relief Requested were distributed to the Board.

Mr. Coakley began his presentation by informing the Board that this property is the site of the former Cape Ann Animal Shelter on Main Street. Unfortunately, the Shelter building has no redeeming value or structural integrity worth saving. In addition, the building sits on a challenging site, due to the presence of ledge at the rear of the lot and a substantial increase in elevation going toward the residential neighborhood to the North, which results in water flowing down onto the site.

Mr. Coakley explained that the structure itself is conforming, however it is in deplorable condition and would most likely be condemned by the Building Inspector if the Applicant tried to make a new use in the same building. Therefore, the Applicant seeks to remove the building and replace it with an attractive design prepared by a local Architect who designed The Residences at Seaport in Brown's Mall further up on Main Street.

Mr. Coakley referred the Board to a 3-D model of the proposed building which was on display before them. He showed them that the proposed new structure will consist of a retail unit on the first floor with parking spaces within the ground level of the structure, as well as two small duplex apartments on the upper levels, which because of the mixed usage makes it by definition a Multi-Family.

Mr. Coakley directed their attention to the first page of the handout that was distributed to the Members. Referring to the Zoning Ordinance Amendment from 2005, Mr. Coakley explained that at that time, the City of Gloucester wanted to encourage housing in the City's downtown retail area and amended the Zoning Ordinance to allow three (3) residential units above a retail space as a matter of right in the Central Business District. However, the resulting Amendment failed to address the dimensional limitations imposed by Section 3.2.2 of the Zoning Ordinance, the Multi-Family Dimensional Criteria. The Amendment provides for an allowable use but not dimensional relief.

Mr. Coakley explained that the Committee to Amend disagreed on a few points so they settled short of the initial goal. The September 6, 2005 Amendment to §2.3.1 allows three (3) dwelling units as a matter of right above retail in the Central Business District so long as the retail or other business/commercial use is retained at street level and the existing parking ordinance is met. However, since they never came back to address the dimensional limitations of §3.2.2, the City's goals have been left unfulfilled unless the Applicants come before the ZBA.

Mr. Coakley told the Board that not only is ZBA approval required, but City Council approval for lot area per unit and open space per unit is required as well. He went on to point out that there isn't open space on Main Street; most all of the buildings are wall to wall on their property lines which is consistent with downtown Planning goals. Mr. Coakley said that the intent of the Amendment was to make it be a Special Permit which is a lesser standard. However, the way it stands now, the Ordinance is contradictory- if it

is allowed by right, an Applicant shouldn't need to still go for lot area per unit and open space per unit at the City Council level.

Mr. Coakley told the Board that if they had visited the site this week, they would have noticed it had been freshly graded. Mr. Coakley wanted the Board to know that the Applicant was not doing anything wrong, he was cleaning up his parking lot, and with permission from the Gloucester Housing Authority, he also cleaned up their parking lot next door. The Applicant has worked through the Building Inspector and the Ward Councilor to clean up the mess that was left behind by the Cape Ann Animal Shelter. Three dumpster fulls of trash, debris and stumps were removed to create more available parking on site.

Regarding that parking lot next door, Mr. Coakley stated that The Applicant has verified through the Building Inspector and the Gloucester Housing Authority that there is a Lease in effect for parking in the vacant lot next door at 256 Main Street (Map 13, Lot 9). This parking lot is open to the public and is one of the only of its kind on Main Street.

Mr. Coakley went on to say that the Amendment requires that the retail use must be retained at street level. The proposal calls for 1,000 s.f. of retail space. The two apartments above have by his estimate approximately 1,600-1,700 s.f. for housing. The requirement is one space per residential unit. This proposal, with its interior parking for each side, is 100% compliant in terms of parking. The retail use is in compliance because of the Municipal Lease.

Member Wright asked if the municipal lot referred to is leased by the Gloucester Housing Authority. Mr. Coakley replied that yes, he had confirmed that is so.

Member Gyllenhaal inquired how long the Lease is for. Mr. Coakley said he could not remember, but it is for an extended term.

Mr. Coakley told the Board that the design they were looking at was put together by Architect Robert Mitnik. He sat down with the Building Inspector to make sure that with the parking on each side, the design did not pose any access or egress issues. Mr. Sanborn agrees that the design of the new building complies with all access issues and is Building Code compliant for underground parking.

Member Wright asked Mr. Coakley whether the new building would occupy the entire lot. Mr. Coakley replied that it basically would.

Member Wright stated that the building is not going on the original footprint, it is basically doubling in size. Mr. Coakley replied that is true, but that is consistent with the other buildings on Main Street or the Central Business District dimensional criteria for retail usage.

Mr. Coakley told the Board that a lot of time was spent with the DPW Director, Mike Hale, regarding curb cuts and utility considerations. Mr. Coakley noted that the existing curb cut is quite extensive.

Mr. Coakley went on to say that there was a gentleman here earlier from the Moose, which is right next door, to inquire about the project. Mr. Coakley said he showed him the model and explained the project to him and he left happy. Since the Moose building is basically right on the property line, the proposed design does not put any windows on that side.

Looking at the model, Member Wright stated that he was confused and asked if there was a slope. Mr. Coakley confirmed that there is an upgrade in elevation at the rear.

Member Wright then asked whether the building is going all the way back to the green that we can see there now. Mr. Coakley said basically it is. He said that currently, water cascades down the back hill so what is planned is a "slab on grade". Mr. Coakley added that there are a couple of sewer lines that come down the hill from up above so the Applicant will be mindful not to disturb them.

Mr. Coakley told the Board that the Applicant has provided for drainage which will comply with the City's Drainage Ordinance. Extensive work has been done with the DPW, Engineering and the City's Contractors to be able to tie into the utility lines for drainage purposes. Mike Hale would like to have the building taken down to install all utilities before that stretch of Main Street is paved this Fall.

Mr. Coakley reminded the Board that the only reason dimensional relief is needed at all is because, although well intentioned, the Committee to Amend didn't go quite far enough to alleviate the Multi-Family dimensional limitations of Section 3.2.2.

Member Wright inquired whether the Applicants met the height requirement. Mr. Coakley confirmed that the proposed building height is below 30'.

Mr. Coakley reminded the Board that mixed use is considered a multi-family structure under the Zoning Ordinance and that customarily it is the City Council that has jurisdiction to grant the relief. However, that relief from the City Council is not needed because the Amendment says it is allowed as a matter of right. The irony of the matter is that since the zoning change did not go far enough, an Applicant is still required to go before both the ZBA for dimensional relief and the City Council for open space per dwelling unit and lot area per dwelling unit.

Member Wright interrupted to say that he was glad the Applicant has to go before the City Council in this instance because the proposal looks like it is using every bit of available space and he doesn't want to have to rule on that.

Mr. Coakley replied that if you walk up and down Main Street you will see that this proposal is consistent with the rest of Main Street. The Central Business District is mixed

residential and business use. He said that the proposed building is not out of character for the area. The Moose lot next door is wall to wall building with five (5) residential units above, as is Nelson's Building on the other side of the Housing Authority lot.

A discussion ensued amongst the Board Members as to which buildings in the area took up the entire lot with residential units upstairs from retail spaces.

Member Wright stated that it is not a question that there is a lot of grandfathered lots there. He said it "gives him pause" and he is glad that this Board doesn't have to deal with it.

Member Gardner said that he understands the Variances requested, however he is confused as to the Special Permit that is being asked for. He asked whether there isn't a use Special Permit.

Mr. Coakley said that he cannot precisely interpret the entire Zoning Amendment. He added that a particular Special Permit was not specified in the Application because it is not clear in the Amendment to the Zoning Ordinance as to which one applies for the expansion, but it is not a Use Permit.

Member Gardner asked Mr. Coakley which Special Permit he felt applied to this proposal, the one for expansion or the Special Permit with the six different criteria to be considered.

Mr. Coakley replied that he didn't feel it mattered because either way, he believes the proposal complies. Regarding the six factors: Social, economic and community factors, adequacy of utilities, neighborhood character, fiscal impact, etc. They are all met here.

Member Gardner stated that as far as he was concerned, this proposal complies. He just isn't sure whether the other Special Permit deals with business.

Mr. Coakley replied that regardless, if you are enlarging the structure, you must come before this Board. He also said that if the Board has a mind to, since he always puts a "catch all" in the Application, the Board could grant a Variance from the requirement of going to the City Council, which was the Building Inspector's suggestion. He told the Board that seeking a Special Permit from City Council is going to cost the Applicant months of time and thousands of dollars and it would just be a rubber stamp due to an oversight in the 2005 Amendment.

Member Wright said "no". He then asked what the three "windows" are below on each side. Mr. Coakley said they are openings for ventilation and they are going to be grated.

Member Gardner said his only concern is whether or not this design is going to stand out in the neighborhood like a sore thumb. He went on to further say that it is so important in Gloucester if you are putting something on Main Street to make it conform to the character of the neighborhood.

Mr. Coakley stated that the sides of the model look like bricks, but the exterior façade is actually made up of composite panels but he was not sure of the size.

Thomas Taliadoras, the Representative of Fernwood Holdings, LLC, addressed the Board. He stated that the composite material comes in 2' x 3' panels.

Member Gyllenhaal asked if it was Hardie Board.

Mr. Taliadoras said it is similar to Hardie Board in that it always keeps its color.

Member Gardner said that this brings up his point. Gorton's across the street is all brick and Halibut Point is all brick.

Member Gyllenhaal asked what about the Purple Building. Member Gardner stated that building has been there for 100 years.

Mr. Taliadoras stated that the front of the proposed new building is brick and the sides would be composite.

Member Wright interjected that the front looks like "mostly air and plate glass windows" and asked why they can't put brick on the sides.

Member Gardner added that it is important to make sure it fits in from the get-go.

Mr. Taliadoras responded that Fernwood Holdings wants to fit in. He added that in addition to being easy to maintain and less expensive, the composite materials are much easier to install, which is important when doing construction on Main Street.

Chairman Movalli asked Mr. Coakley if he could put a condition in the Decision.

Member Gardner interjected that if the Applicant is looking for relief, he thinks the Board has the right to condition that relief on whatever they want, and he feels that the entire building should be brick.

TESTIMONY IN OPPOSITION TO THE PROPOSAL:

Dennis Feeney, of 15 Prospect Square, addressed the Board. He was concerned about a sewer pipe being left. He said his house is the red-roofed house on the hill that is behind this site. Mr. Feeney stated that the sewer pipe is an old, clay pipe that is inactive and he feels it should be taken out. He added that sewer has backed up into his house in the past.

Chairman Movalli asked Mr. Feeney to show the Board on the Plan where the pipe comes from. Mr. Feeney did so.

Member Gardner asked Mr. Feeney if he is so high up on the hill, how the sewer could back up into his house. Mr. Feeney replied that it was due to the amount of pressure in the pipe.

Chairman Movalli clarified that this is an old pipe and Mr. Feeney wants it removed. Mr. Feeney stated that if it was removed, he would have no objection to the project.

At this time, Mr. Coakley was allowed his rebuttal. He stated that this project would not be making use of that pipe in the future. The proposal calls for Fernwood Holdings to put their own sewer line in from the new building. Mr. Coakley also stated that since the Moose building uses that pipe, no promise could be made that it will be removed. He said that if it was allowed by DPW standards, it could be capped.

Mr. Taliadoras added that 260 Main Street building has stopped using it. The Moose still uses it. There will be a new line from the new building to Main Street. Mr. Taliadoras told the Board that if he had the proper permission, he would remove and cap the rear portion because it is an eyesore.

Mr. Feeney stated that he would have no problem calling the State DEP.

Chairman Movalli told Mr. Coakley that if this proposal is passed, capping the old pipe for Mr. Feeney's house would be Condition #2. He reminded him that Condition #1 is that the building will be all brick.

DISCUSSION BY THE BOARD:

Member Gardner commented that Mr. Coakley had indicated that this is an alteration and expansion of a non-conforming use. The proposed use is consistent and in harmony with the current Zoning Ordinance. It is not more detrimental to the neighborhood. What exists now is an old, dilapidated building and what is proposed is attractive and in harmony with the Zoning Ordinance, as amended. Member Gardner further added that if Mr. Coakley wants the Board to consider the Special Permit based on criteria A through F; he feels all six (6) criteria are satisfied. Member Gardner went on to specifically discuss the Applicant's compliance with each of the six points. Retail below with apartments above is consistent with community needs. It is also consistent with neighborhood character, as it is a mixed use of retail and residential. Member Gardner expressed that the most important point to be considered by the Board is the potential fiscal impact. He said he feels it is very positive to be taking down an old, dilapidated building and replacing it with a new one, as it will be a tax improvement for the City. Member Gardner stated that as such, he is voting in favor of the Special Permit.

Regarding the "basketful" of Variances, Member Gardner commented that there is a hardship for which relief can be granted and therefore he is also voting yes for the Variances.

Regarding the two Conditions, Member Gardner stated that the first condition is that the building is to be all brick. He said it has been represented to the Board that the side adjacent to the Moose cannot be bricked because the new building is on its own building line right next to the Moose. However, if it is visible from Main Street, it needs to be bricked. The second Condition is regarding the old sewer pipe. Member Gardner said that according to Mr. Feeney, it is no longer in use except by the Moose. To the extent that it is legal and feasible, so as not to impede the Moose's portion of the pipe, the visible part will be removed in accordance with the Building Code as applied by the Building Inspector.

Member Gyllenhaal voted in favor of the Special Permit and the Variances.

Chairman Movalli stated that he agrees with his colleagues and also voted in favor of the Special Permit and the Variances. He further added that this Board had pushed for the 2005 Amendment to the Zoning Ordinance for years. He said that it is ideal to have apartments over these buildings. He also added that he feels the proposed new building will fit in perfectly.

Vice-Chairman Bergmann said that she also agreed with her colleagues wholeheartedly. She said she believes the new building will be a tremendous addition to Main Street and she is therefore voting yes to the Special Permit and the Variances. She went on to say that as far as the Conditions are concerned, she is wholeheartedly in agreement with the exterior of the building needing to be brick.

Mr. Coakley suggested that perhaps the Architect could submit a sample of the composite brick to Member Gardner. He added that aside from the cost, to lay brick by brick is extremely time consuming, which is detrimental in the City's downtown area.

Member Gardner replied that it should be brick.

Member Gardner stated that he would like to see the whole building brick. He said that it is a little bit more money, but it would have a more aesthetically pleasing impact.

Member Wright said he is in agreement with both of the Conditions and is voting yes to both the Special Permit and the Variances.

VOTE OF THE BOARD:

Therefore, upon motion duly made and seconded the following relief was granted to enable petitioner to demolish the existing building and rebuild a new structure containing retail on the first floor and two (2) residential units on the upper floors at 260 Main Street:

- Special Permits as applicable under §2.4.3, §1.9 and §1.8.3 of the Gloucester Zoning Ordinance and M.G.L. Chapter 40A to change, extend or alter a pre-existing non-conforming structure at 260 Main Street.

Subject to the following Conditions:

1. The façade of the building will be constructed of brick on all sides; and
 2. To the extent that it is legal and feasible, so as not to impede the Moose's use of a portion of the pipe, the rear portion of the old sewer pipe up to 15 Prospect Square will be removed and capped in accordance with the Building Code Standards as applied by the Building Inspector.
- Variances under Section 3.2.2 of the Gloucester Zoning Ordinance:
 - a) Lot Area- 6,861 s.f.
 - b) Lot Width- 40'
 - c) Lot Frontage- 22'
 - d) Front Yard Setback- 15'
 - e) Left Side Yard Setback- 7.5'
 - f) Right Side Yard Setback- 7.5'
 - g) Rear Yard Setback- 1'

This Decision shall not take effect until notice thereof is filed in the Registry of Deeds of Essex County. The fee for filing such notice shall be paid by the Applicant. Prior to filing this decision with the Registry of Deeds, Petitioner shall have the Seal of the City affixed to same.

Note: The within vote is in accordance with the plans submitted and approved by the Board on August 28, 2014. The petitioner must substantially construct according to those plans submitted and approved by the Board on August 28, 2014. This decision is granted in accordance with the Zoning Ordinance as revised through October, 2008.

IN FAVOR OF THE REQUESTED RELIEF:


JAMES P. MOVALLI, CHAIRMAN


FRANCIS S. WRIGHT, JR.


LEONARD A. GYLLENHAAL


VIRGINIA BERGMANN, VICE-CHAIR


DAVID B. GARDNER

OPPOSED: None



CITY OF GLOUCESTER

Commonwealth of Massachusetts

DPW - ENGINEERING DIVISION

CITY HALL ANNEX

2ND FLOOR

3 POND ROAD

GLOUCESTER, MA 01930

PHONE: 978-281-9773 FAX: 978-281-9725

**Michael B. Hale, A.I.C.P.
*Director of Public Works***

**Paul G. Keane, P.E.
*City Engineer***

**Ryan Marques,
M.S.C.E., E.I.T.,
*Civil Engineer***

**Karen L. Andrews
*Sr. Engineering Aide***

To: *Mayor Carolyn Kirk*

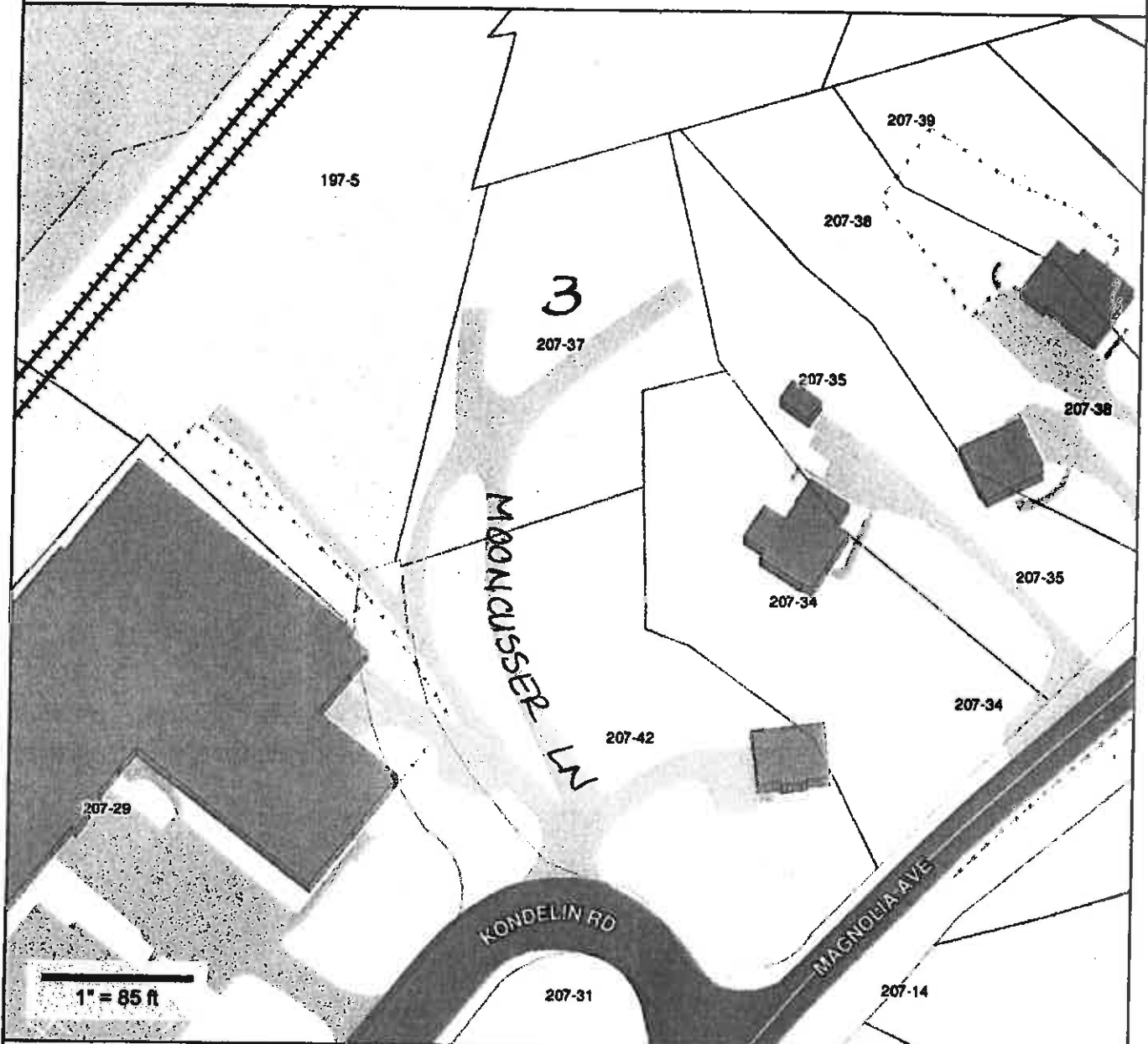
**From: *Karen Andrews*
*Engineering***

Date: *October 16, 2014*

RE: *Proposed Street Naming and Numbering Plan for Mooncusser Lane*

Attached please find a proposed street naming and numbering plan for Mooncusser Lane, to be forwarded to the City Council for approval.

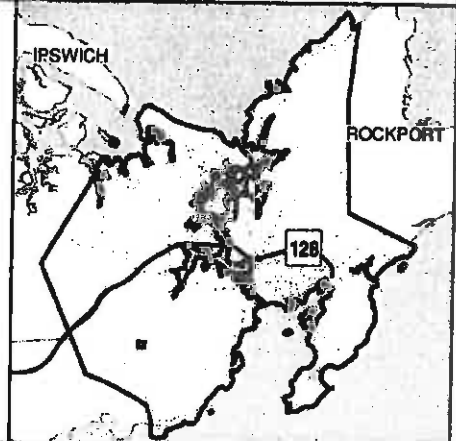
Mooncusser Lane



MAP FOR REFERENCE ONLY NOT A LEGAL DOCUMENT

The Town makes no claims and no warranties, expressed or implied, concerning the validity or accuracy of the GIS data presented on this map.

Parcels updated 3/31/2014



PROPOSED STREET NAMING AND NUMBERING MOONCUSSEY LANE

OWNER OR RESIDENT & MAILING ADDRESS	ASSESSORS DATABASE	PROPOSED STREET NAME/ NUMBER	ASSESSOR MAP/LOT #
Thompson Webster, Tr Ravenswood Realty Trust 111R Magnolia Avenue Gloucester, MA 01930	220R Magnolia Avenue	3 Mooncussey Lane	207-37



FP-2A
(Rev. 04-2010)

The Commonwealth of Massachusetts
City/Town of GLOUCESTER

Application For License

Massachusetts General Law, Chapter 148 §13

☒ New License ☐ Amended License

GIS Coordinates

LAT.

LONG.

License Number

Application is hereby made in accordance with the provisions of Chapter 148 of the General Laws of Massachusetts for a license to store flammables, combustibles or explosives on land in buildings or structures herein described.

Location of Land: 2 Washington Street, Gloucester
Number, Street and Aerial or Map and Parcel ID

Attach a plot plan of the property indicating the location of property lines and all buildings or structures. ☒

Owner of Land: ENERGY NORTH

Address of Land Owner: 1700 SHAUSHEEN ST TOWNSBURY MA

Use and Occupancy of Buildings and Structures: GAS STATION

If this is an application for amendment of an existing license, indicate date of original license and any subsequent amendments

Attach a copy of the current license

Flammable and Combustible Liquids, Flammable Gases and Solids

Complete this section for the storage of flammable and combustible liquids, solids, and gases; see 527 CMR 14;

Attach additional pages if needed. All tanks and containers are considered full for the purposes of licensing and permitting.

PRODUCT NAME	CLASS	MAXIMUM QUANTITY	UNITS gal, lbs, Cubic feet	CONTAINER UST, AST, IBC, drums
REG NO LEAD		16,000	GAL	UTS
SUP NO LEAD		8,000	GAL	UTS
LDW SULFEN Diesel		8,000	GAL	UTS

Total quantity of all flammable liquids to be stored: 32,000

Total quantity of all combustible liquids to be stored: 0

Total quantity of all flammable gases to be stored: 0

Total quantity of all flammable solids to be stored: 0

CITY CLERK
GLOUCESTER, MA
14 OCT 20 PM 2:52

LP-gas (Complete this section for the storage of LP-gas or propane)

Indicate the maximum quantity of LP-gas to be stored and the sizes and capacities of all storage containers. (See 327 CMR 6)

❖ Maximum quantity (in gallons) of LP-gas to be stored in aboveground containers: 0

List sizes and capacities of all aboveground containers used for storage: _____

❖ Maximum quantity (in gallons) of LP-gas to be stored in underground containers: 0

List sizes and capacities of all underground containers used for storage: _____

Total aggregate quantity of all LP-gas to be stored: _____

Fireworks (Complete this section for the storage of fireworks)

Indicate classes of fireworks to be stored and maximum quantity of each class. (See 527 CMR 2)

❖ Maximum amount (in pounds) of Class 1.3G: _____ Type/class of magazine used for storage: _____

❖ Maximum amount (in pounds) of Class 1.4G: _____ Type/class of magazine used for storage: _____

❖ Maximum amount (in pounds) of Class 1.4: _____ Type/class of magazine used for storage: _____

Total aggregate quantity of all classes of fireworks to be stored: _____

Explosives (Complete this section for the storage of explosives)

Indicate classes of explosive to be stored and maximum quantity of each class. (See 527 CMR 13)

❖ Maximum amount (in pounds) of Class 1.1: _____ Number of magazines used for storage: _____

❖ Maximum amount (in pounds) of Class 1.2: _____ Number of magazines used for storage: _____

❖ Maximum amount (in pounds) of Class 1.3: _____ Number of magazines used for storage: _____

❖ Maximum amount (in pounds) of Class 1.4: _____ Number of magazines used for storage: _____

❖ Maximum amount (in pounds) of Class 1.5: _____ Number of magazines used for storage: _____

❖ Maximum amount (in pounds) of Class 1.6: _____ Number of magazines used for storage: _____

I, DUTCH HOLLAND, hereby attest that I am authorized to make this application. I acknowledge that the information contained herein is accurate and complete to the best of my knowledge and belief. I acknowledge that all materials stored pursuant to any license granted hereunder must be stored or kept in accordance with all applicable laws, codes, rules and regulations, including but not limited to Massachusetts Chapter 148, and the Massachusetts Fire Code (527 CMR). I further acknowledge that the storage of any material specified in any license granted hereunder may not exceed the maximum quantity specified by the license.

Signature [Signature] Date 9/28/14 Name DUTCH HOLLAND

Fire Department Use Only

I, ERIC SMITH, Head of the GLOUCESTER Fire Department endorse this application with my

☒ Approval ☐ Disapproval

Signature of Head of the Fire Department [Signature]

10/16/14
Date

Recommendations: _____



City of Gloucester Abutters Report

Abutters to Parcel: Map-Lot-Unit 2-11

Please be aware that the abutment list reflects mailing address for the real estate tax bills as requested by the property owners. Mortgage companies, banks and other financial institutions may be receiving the notification and not the homeowner as required. Please be sure you are complying with notification requirements.
Gloucester Board of Assessors.

This list of owners of record as shown on the most recent tax list of the City of Gloucester has been prepared for the purposes of notifying abutters as required by the City's Zoning Board of Appeals or City Council and it reflects the abutters to the Parcel known as Map 2 Lot 11 as further shown on the attached map dated 10/20/2014.

ABUTTER	STREET ADDRESS	PARCEL NO.	TAX BILL ADDRESS
2-10 MERKENBAR LLC DBA TALLYS	13 COMMERCIAL ST	2-10	MERKENBAR LLC DBA TALLYS 2 WASHINGTON ST GLOUCESTER, MA 01930
2-9 RANDAZZO GIUSEPPE RANDAZZO ROS	17 COMMERCIAL ST	2-9	RANDAZZO GIUSEPPE RANDAZZO ROS 17 COMMERCIAL ST GLOUCESTER, MA 01930
2-11 MERKENBAR LLC DBA TALLYS	2 WASHINGTON ST	2-11	MERKENBAR LLC DBA TALLYS 2 WASHINGTON ST GLOUCESTER, MA 01930
2-28 ORLANDO J & WHITE E TR ORLANDO	1 WESTERN AV	2-28	ORLANDO J & WHITE E TR ORLANDO 1 WESTERN AVE GLOUCESTER, MA 01930 0000
2-14 FRONTIERO ROBERT P	6 WESTERN AV	2-14	FRONTIERO ROBERT P 20 EMERALD ST GLOUCESTER, MA 01930
2-15 A R S HOLDINGS LLC	8 WESTERN AV	2-15	A R S HOLDINGS LLC 197 ESSEX AV GLOUCESTER, MA 01930
2-16 SANFILIPPO JOANN M	10 WESTERN AV	2-16	SANFILIPPO JOANN M 10 WESTERN AV GLOUCESTER, MA 01930



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Gloucester Board of Assessors.

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ABUTTER

STREET ADDRESS

PARCEL NO.

TAX BILL ADDRESS

The Gloucester Board of Assessors certifies that the Abutters Report program written to create a list of the names and addresses of property owners from the applicable tax list has been reviewed. To the best of our knowledge and belief the Abutters Report program generates an accurate list from the most recent tax list of the assessed owner of record and the mailing information of the parties in interest as defined within and required by the law and therefore the within document constitutes a certified abutters list.

Nancy A. Papows, MAA

Gary I. Johnstone, MAA

Bethann B. Godinho, MAA

GLOUCESTER BOARD OF ASSESSORS

City of Gloucester Assessors' Office, City Hall, 9 Dale Avenue, Gloucester, MA 01930

10/20/2014



City of Gloucester Abutters Report

Abutters to Parcel: Map-Lot-Unit 2-11

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Gloucester Board of Assessors,

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LICENSE AGREEMENT

October ____, 2014

Parties

Cape Ann Amateur Radio Association, Inc. (“CAARA” or “Licensor”), a Massachusetts non-profit corporation with a mailing address of 6 Stanwood Street, Gloucester, Massachusetts; and

Karen M. Elliot (“Ms. Elliot” or “Licensee”), of 541 Washington Street, Gloucester, Massachusetts; and

Any successor-in-interest to Ms. Elliot who is not a member of Ms. Elliot’s Immediate Family as defined below (“Successor Licensee”); and

City of Gloucester (“City”), a municipal corporation located at 9 Dale Avenue, Gloucester, Massachusetts.

Recitals

WHEREAS, the City has agreed to sell the real property at 6 Stanwood ~~Street~~ Street to CAARA based in part on the service that CAARA provides to the City and with the understanding that CAARA will provide Ms. Elliot with access to her property, and the City has retained a reversionary right if CAARA ever ceases to use the property for its charitable purpose; and

WHEREAS, the owners of 541 Washington Street have used a portion of City property for access to 541 Washington Street for at least 40 years, said portion marked as “Access Area” on the attached Exhibit A; and

WHEREAS, Ms. Elliot, the current owner of 541 Washington Street (“Premises”), wishes to enter into a contract with CAARA to ensure access to her property.

Agreements

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties intending to be legally bound hereby agree as follows:

1. Licensor grants Licensee, her Immediate Family and their invitees and guests a non-exclusive, revocable License to use the Access Area for vehicular and pedestrian passage to, from and between the Premises and Stanwood Street. Licensor consents to the occasional passage and use by delivery and landscaping vehicles, which are permitted to extend beyond the License Area as reasonably necessary to accommodate the vehicle size and turning radius. The term “Immediate Family” comprises Ms. Elliot’s spouse, direct descendants, Ms. Elliot’s parents, and Ms. Elliot’s siblings. The License shall be revocable only as follows: In the event that Licensor or Successor Licensor determine

that Licensee or any of her agents has violated this License by repeatedly over time using the Access Area in a manner (a) that is seriously detrimental to the health, safety, and welfare of Licensors and Successor Licensors (b) that materially and substantially prohibits the Licensors from being able to use the Access Area as set out below, and (c) that is not permitted herein, (all together "Violation"), Licensors or Successor Licensors shall provide written notice of the alleged Violation herein to the Licensee. Such notice shall be delivered by one of the following means (a) in hand, (b) by constable, (c) by certified mail, with return receipt requested and ~~received, received~~; postage prepaid or (d) by nationally recognized overnight delivery with signed receipt of service. If Licensee does not cease such noticed Violation within 30 days after receipt of notice, Licensors shall be allowed to terminate this Agreement by providing written notice of termination to the Licensee. Following receipt of a termination notice under this License agreement, Licensee shall have a reasonable period of time before the termination takes effect in order to make alternative access and parking arrangements.

2. The Licensee and Immediate Family may assign this License upon conveyance of the Premises, and not otherwise. Upon conveyance of the Premises to a successor Licensee who is not a member of Licensee's Immediate Family ("Successor Licensee"), this License shall be terminable as follows: In the event that Licensors or Successor Licensors determine that Licensee or any of her agents, Immediate Family, or guests has repeatedly behaved in manner that is seriously detrimental to the health, safety, and welfare of Licensors and Successor Licensors, while using the Access Area, Licensors or Successor Licensors shall provide written notice of the alleged violations herein to the Licensee. Such notice shall be delivered in hand, by constable, certified mail, return receipt ~~requested, requested~~; postage prepaid or by nationally recognized overnight delivery. If Licensee does not cure such violations within 30 days, ~~Licensors~~, Licensors shall be allowed to terminate this Agreement by providing written notice of termination to the Licensee.
3. CAARA shall have the right to park in the Access Area during regularly scheduled meetings, which as of the date of this Agreement are Sunday mornings between 9:00 a.m. and 12:00 p.m. and Wednesday evenings between 7:00 p.m. and 9:00 p.m. CAARA reserves the right to change its meeting times and dates but shall not be permitted to park in the Access Area during such regular meetings more than twice a week or for more than five (5) hours a week. CAARA shall give Ms. Elliot two weeks' notice of any permanent change in its meeting times and shall negotiate in good faith with her if she expresses objections. CAARA may also use the Access Area in times of emergency when the CAARA Communications Center is activated. CAARA will use the Access Area as a last resort, that is, in times when no other parking is available at 6 Stanwood Street. Other than agreed to herein, parking is not allowed in the Access Area. CAARA shall not block the Access Area except during the regularly scheduled times described above. CAARA will make good faith efforts to permit Licensee access to remove from the Premises car(s) which are blocked in during the above times.
4. It is understood and agreed that Licensee and Licensors/Successor Licensors shall in no event be construed or held to be partners, associates, affiliates, joint ~~venturers~~ventures or

other related entities, and that the relationship between the Parties is, and at all times shall remain, that of Licensors and Licensee.

5. Licensee, successors, assigns, and transferees agree to indemnify, provide the defense of, reimburse and hold harmless Licensors and Successor Licensors, their officers, and employees from and against all costs, claims, actions, liabilities, damages, expenses, medical expenses, causes of actions, suits, or judgments by or on behalf of any person or persons, firm or firms, corporation or corporations, or any other business entity, or any governmental authority arising from any personal injury or property damage of any kind, to persons or property, caused by and arising out of Licensee's negligence in using the Access Area for the purposes under this Agreement.
6. Licensee acknowledges that Licensors have not made and does not make any representation or warranty as to any matter affecting or relating to the Access Area, including but not limited to the physical condition or suitability thereof for access; Licensee acknowledges that no such representation or warranty has been made; and Licensee agrees that this Agreement relates to the Access Area in "as-is" condition as of the date of this Agreement.
7. Except for access provided herein, Licensors and Successor Licensors cannot guarantee, warranty, or promise in any way that current or future owners of 537 Washington Street will allow access over that property to Licensee's property and as a result, Licensors and Successor Licensors cannot guarantee, warranty, or promise that Licensee will always have access to her property from Stanwood Street.
8. CAARA retains the right to reasonably reconfigure (but not reduce) the Access Area in cases where the use of the area along the property line with 537 Washington Street is advantageous for the erection of antennas or similar activities. Such reconfiguration shall not impede Licensee's or Successor Licensee's access to the Premises as provided above.
9. Except as otherwise agreed between them from time to time, the Parties shall each have the right but not obligation to maintain, plow, and repair the Access Area. Other than the meetings discussed in Paragraph 3, the Parties shall do nothing to impede or interfere with each other's reasonable use of the Access Area. If either Party wishes to improve or repair the Access Area, said Party shall promptly notify the other and present details of the work to be done. If any Party shall make any excavation in any portion of the Access Area for his or her own use and benefit or damage any portion, the Party so excavating or damaging agrees to restore the area to its pre-disturbed condition at such Party's expense immediately after the usage, maintenance, replacement, repair or damage or as soon as weather conditions allow. The Party so disturbing the Access Area shall perform all such work in a workmanlike manner and at such times so as not to inconvenience unreasonably other parties entitled to the use of the Access Area. Licensee shall not install any utilities or perform any underground work in the Access Area without the express, written permission of Licensors.
10. No building and no portion of any building are allowed in the Access Area.

11. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts.
12. This Agreement supersedes all earlier letters, conversations, purchase orders, proposals, memoranda, and other written and oral communications, and it contains all the terms agreed on by the parties, with respect to the subject matter hereof, and no changes in, additions to, or subtractions from, this Agreement will be binding on the parties unless in writing and signed by CAARA, the City of Gloucester, and Karen Elliot.
13. If any term or provision of this Agreement or the application thereof to any circumstance shall be invalid or unenforceable, the remainder of this Agreement or the application thereof to any circumstance other than that to which it is invalid or unenforceable shall not be affected thereby.
14. In the event of a dispute between or among the Parties concerning this License, the aggrieved Party shall send a written request asking the other Party to meet and confer in an effort to resolve the dispute. The other Party must agree to and attend at least one meeting and the Parties shall confer with each other in good faith to resolve the dispute. If the Parties cannot agree or compromise, the Parties may each submit the name of a Nominator to each other. The two Nominators shall choose a neutral arbitrator, who shall be someone with more than ten (10) years of legal, real estate, or business experience with no prior connection to any of the parties. The arbitrator shall confer with the Parties, either separately or together, and issue a written decision within two weeks of meeting with the Parties. The written agreement is binding on the Parties and judicially enforceable if the agreement is not in conflict with the law. The arbitrator's fee shall be evenly divided between the Parties. The provisions of this Paragraph shall not preclude either Party from commencing and prosecuting in any court of competent jurisdiction, any action (i) for equitable or injunctive relief of any kind or nature (including without limitation, any action commenced by either Party for specific performance of any obligations hereunder, or for obtaining a temporary or permanent restraining order, or to obtain an attachment) or (ii) to file an appeal to any applicable municipal or regulatory approval in order to preserve the rights of a Party to the extent such Party prevails in a dispute over such approval.
15. This Agreement may be executed and delivered in any number of counterparts, each of which so executed and delivered shall be deemed to be an original and all of which shall constitute one and the same instrument.
16. This Agreement shall be recorded in the Essex South Registry of Deeds at Licensee's expense.
17. The Parties to this Agreement have been represented by counsel, fully understand all of its terms and conditions, and sign it freely.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed and delivered as a sealed instrument effective as of the date first above written.

CITY OF GLOUCESTER

CAPE ANN AMATEUR RADIO ASSOCIATION, Inc.

By its Mayor, Carolyn A. Kirk

By its President, Stanley W. Stone

KAREN ELLIOT